

SENATE RESOLUTION NO. 140

BY SENATOR STINE

A RESOLUTION

To urge and request the Commissioner of Insurance to study the issue of insurers failing to timely pay property damage claims after a presidentially or gubernatorially declared disaster or emergency.

WHEREAS, R.S. 22:41(13) requires an insurer pay property damage claims within thirty days after satisfactory proof of loss is provided, and if an insurer fails to pay within thirty days, the insurer can be deemed in violation of R.S. 22:1892 and 1973; and

WHEREAS, an insurer is required to pay a property damage claim within thirty days, and if an insurer fails to pay within thirty days, an insurer owes his policyholder the amount of loss found due, along with paying his policyholder fifty percent on the amount due or one thousand dollars, whichever is greater, or if a partial payment is made, fifty percent of the difference between the amount paid and the amount of loss, as well as reasonable attorney fees and costs when such failure is found to be arbitrary, capricious, or without probable cause according to R.S. 22:1892(B)(1)(a); and

WHEREAS, effective August 1, 2021, if a presidentially or gubernatorially disaster or emergency is declared, an insurer is required to pay a property damage claim within thirty days, and if an insurer fails to pay within thirty days, the insurer owes his policyholder the amount of loss found due, along with paying his policyholder fifty percent on the amount due or two thousand five hundred dollars or whichever is greater, or if a partial payment is made, fifty percent of the difference between the amount paid and the amount of loss, along with paying reasonable attorney fees and costs, or two thousand five hundred dollars, whichever is greater pursuant to R.S. 22:1973 and 1892(B)(1)(b); and

WHEREAS, policyholders in this state have struggled with insurance companies to

rebuild and recover from the devastation caused by hurricanes Laura, Delta, Zeta, and Ida as a result of insurers failing to pay property damage claims within thirty days as required by R.S. 22:41(13), 1892, and 1973; and

WHEREAS, policyholders have resorted to hiring attorneys, public adjusters, and filing nearly six thousand seven hundred complaints with the Commissioner of Insurance in hopes that their insurer will pay the property damage claims owed in order for them to once again live in their own homes; and

WHEREAS, an insurer owes his policyholder a duty of good faith and fair dealing, which includes paying a settlement within thirty days after an agreement is reduced to writing, and if an insurer breaches this duty, the insurer may owe, in addition to any general or special damages to which a policyholder is entitled for breach of the imposed duty, penalties assessed against the insurer in an amount not to exceed two times the damages sustained or five thousand dollars, whichever is greater pursuant to R.S. 22:1973; and

WHEREAS, ensuring there are effective legal remedies to provide punitive damages that discourage insurers from acting in bad faith following a presidentially or gubernatorially declared disaster or emergency is a critical public policy priority of this state; and

WHEREAS, it is the intent of the Legislature of Louisiana that our citizens have access to a healthy, competitive insurance market with insurers that treat policyholders fairly and with good faith and pay property damage claims in a timely manner.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Commissioner of Insurance to study the issue of insurers failing to timely pay property damage claims after a presidentially or gubernatorially declared disaster or emergency and to report his findings and recommendations to the Senate and House Committees on insurance not later than February 1, 2023.

BE IT FURTHER RESOLVED that in conducting the study, the Commissioner of Insurance shall answer the following questions:

(1) What is the number of fifty percent damages penalties and the total dollar amount paid pursuant to R.S. 22:1892(B)(1)(a) and (b) that have been awarded to policyholders from each of the top twenty-five market share homeowners' insurers in this state since 2020 on claims resulting from hurricanes Laura, Delta, Zeta, and Ida?

(2) What is the number of fifty percent damages penalties and the total dollar amount paid pursuant to R.S. 22:1892(B)(1)(a) and (b) that have been awarded to policyholders from each of the top twenty-five market share commercial property insurers in Louisiana since 2020 on claims resulting from hurricanes Laura, Delta, Zeta, and Ida?

(3) What is the number of two times damages penalties and the total dollar amount paid pursuant to R.S. 22:1973(C) that have been awarded to policyholders from each of the top twenty-five market share homeowners' insurers in Louisiana since 2020 on homeowner's claims resulting from hurricanes Laura, Delta, Zeta, and Ida?

(4) What is the total dollar amount of two times damages penalties and the total dollar amount paid pursuant to R.S. 22:1973(C) that have been awarded to policyholders from each of the top twenty-five market share commercial insurers in this state since 2020 on homeowners' claims resulting from hurricanes Laura, Delta, Zeta, and Ida?

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Commissioner of Insurance.

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PRESIDENT OF THE SENATE